



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

January 10, 1951

Hon. Raymond E. Magee
County Attorney
Galveston County
Galveston, Texas

Opinion No. V-1140.

Re: Maximum compensation
of county officials
in Galveston County.

Dear Sir:

You have requested an opinion relative to the maximum salaries of county officials in Galveston County.

Galveston County having a population of 112,226 inhabitants according to the 1950 Federal census, the salaries of the sheriff, assessor and collector of taxes, county judge, county attorney, district clerk, county clerk, and county treasurer are governed by the provisions of Section 13 of Article 3912e and Articles 3912e-6, 3912e-7, and 3912g, Vernon's Civil Statutes. Article 3912e-16, V.C.S., setting the salaries of county officers in counties of 90,000 to 145,000 inhabitants and with a tax valuation of not less than \$85,000,000 according to the tax rolls of 1948, cited in your supplemental letter of January 5, was held unconstitutional in Attorney General's Opinion V-893 (1949) and therefore has no application to your request.

Section 13 of Article 3912e, V.C.S., provides in part:

"The Commissioners' Court in counties having a population of twenty thousand (20,000) inhabitants or more, and less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census, is hereby authorized and it shall be its duty to fix the salaries of all the following named officers, to-wit: sheriff, assessor and collector of taxes, county judge, county attorney, including criminal district attorneys and county attorneys who perform the duties of district attorneys, district clerk, county clerk, treasurer, hide and animal inspector. Each of said officers shall be paid in money an annual salary in twelve (12) equal installments of not less than the

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total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935; . . ."

Section 1 of Article 3912g, V.C.S., provides in part:

"The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the officer justify the increase, to enter an order increasing the compensation of the precinct, county and district officers, or either of them, in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1948, whether paid on fee or salary basis; provided, however, the members of the Commissioners Court may not raise the salaries of any of such Commissioners Court under the terms of this Act without raising the salary of the remaining county officials in like proportion."

The maximum compensation of the county treasurer prior to the enactment of Article 3912g was governed by the provisions of Section 13 of Article 3912e and Article 3943 and was \$2500.00. Att'y Gen. Op. 0-6646 (1945). Article 3912g authorizes a twenty-five (25%) per cent increase in salary. Therefore, the maximum salary that may be paid to the county treasurer of Galveston County is \$3125.00 (\$2500 plus \$625).

Section 13 of Article 3912e provides that the maximum salaries that may be paid to the officers named therein is the maximum amount allowed such officers under the laws existing on August 24, 1935. Section 13 of Article 3912e was amended in 1941 by Articles 3912e-6 and 3912e-7 so as to provide that in counties of 100,000 to 190,000 inhabitants the commissioners' court in fixing the annual salary that shall be paid an officer named in Section 13 of Article 3912e should compute the "maximum salary allowed under the laws on August 24, 1935" as being the maximum amount which could have been paid each of such officers under the laws existing on August 24, 1935, according to the last preceding Federal census rather than the Federal census of 1930 which was in fact the census applicable to the counties in 1935. Att'y Gen. Op. 0-6676 (1945.)

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Galveston County having a population of 112,226 inhabitants now comes within the provisions of Articles 3912e-6 and 3912e-7. Therefore, the base compensation of those officers named in Article 3912e is governed by the provisions of Articles 3883 and 3891, V.C.S., applicable to counties of 100,001 and not more than 150,000 population, which provide:

Art. 3883. "Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county and district officers mentioned in this Article shall be as follows:

". . .

"5. In counties containing as many as one hundred thousand and one (100,001) and not more than one hundred and fifty thousand (150,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Forty-five Hundred (\$4500.00) Dollars each; Justice of the Peace and Constable, Twenty-five Hundred (\$2500.00) Dollars Each."

Art. 3891. "In counties containing as many as one hundred thousand and one (100,001) and not more than one hundred and fifty thousand (150,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Fifty-five Hundred Dollars (\$5500). . . ."

Therefore, the maximum base pay of the sheriff, assessor and collector of taxes, county judge, county attorney, district clerk, and county clerk of Galveston County is \$5500.00.

Article 3912g, V.C.S., provides for an increase in compensation "in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1948." Galveston County had a population of 81,173 in 1948, according to the 1940 Federal census. Therefore, Articles 3912e-6 and 3912e-7

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were not applicable to Galveston County in 1948. The maximum compensation in 1948 that was allowed the sheriff, assessor-collector of taxes, county judge, county attorney, district clerk, and county clerk was the maximum amount allowed such officers under the laws existing on August 24, 1935. Galveston County having a population in 1935 of 64,401 inhabitants according to the 1930 Federal census, the applicable provisions of Articles 3883 and 3891 were:

"Art. 3883. "Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county and district officers mentioned in this Article shall be as follows:

". . .

"4. In counties containing sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Four Thousand (\$4000.00) Dollars each; . . ."

Art. 3891. "In counties containing sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, district and county officers named herein shall retain one-third of such excess fees until such one-third, together with the amount specified in Article 3883, amounts to Forty-seven Hundred and Fifty Dollars (\$4750).
 . . ."

Therefore, the maximum compensation allowed the sheriff, assessor-collector of taxes, county judge, county attorney, district clerk, and county clerk of Galveston County in 1948 was \$4750.00. The commissioners' court is authorized under Article 3912g to allow such officers an increase in compensation not to exceed \$1187.50 (25% of \$4750). We agree with you, therefore, that the maximum annual compensation that may now be allowed the sheriff, assessor-collector of taxes, county judge, county attorney, district clerk, and county clerk is \$6687.50 (\$5500 base compensation plus \$1187.50).

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The compensation of the county commissioners of Galveston County is governed by the provisions of Articles 2350 and 3912g, V.C.S. Since the last approved assessed valuation of Galveston County (1950 valuation) is \$114,998,245.00, compensation allowed county commissioners under the provisions of Article 2350 is \$4000.00 in 1951. Article 3912g authorizes an increase not to exceed twenty-five per cent of the sum allowed under the laws for the fiscal year of 1948. Galveston County in 1948 had an assessed valuation (1947 valuation) of \$97,237,388.00, and therefore the county commissioners were entitled to a salary not to exceed \$4000.00 in 1948. The compensation of the county commissions may be increased in an additional amount not to exceed \$1000.00 (25% of \$4000). It is our opinion, therefore, that the maximum salary of a county commissioner in Galveston County in 1951 is \$5000.00 (\$4000 plus \$1000).

SUMMARY

The maximum compensation that may be allowed the county treasurer of Galveston County in 1951 is \$3125.00. Sec.13, Art. 3912e, Arts. 3943, 3912g, V.C.S.; Att'y Gen. Op. 0-6646 (1945). The maximum compensation that may be allowed the sheriff, assessor and collector of taxes, county judge, county attorney, district clerk, and county clerk of Galveston County in 1951 is \$6687.50. Sec.13, Art. 3912e, Arts. 3912e-6, 3912e-7, 3883, 3891, 3912g; Att'y Gen. Op. 0-6676 (1945). The maximum compensation that may be allowed county commissioners in Galveston County in 1951 is \$5000.00. Arts. 2350 and 3912g, V.C.S.

APPROVED:

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JR:mw

Yours very truly,

PRICE DANIEL
Attorney General

By 
John Reeves
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